

Order

Michigan Supreme Court
Lansing, Michigan

April 18, 2012

Robert P. Young, Jr.,
Chief Justice

144169

Michael F. Cavanagh
Marilyn Kelly
Stephen J. Markman
Diane M. Hathaway
Mary Beth Kelly
Brian K. Zahra,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 144169
COA: 297692
Wayne CC: 09-027558-FC

MICHAEL EUGENE CHILDS,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the October 13, 2011 judgment of the Court of Appeals is considered. With regard to the defendant's Issue I, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we AFFIRM the result reached by the Court of Appeals, but VACATE that part of the Court of Appeals opinion holding that the autopsy report was not testimonial and, therefore, that its admission did not violate the defendant's Sixth Amendment right to be confronted with the witnesses against him. In particular, we disagree with the Court of Appeals reliance on MRE 803(8) and its determination that the autopsy report was not prepared in anticipation of litigation, see *Bullcoming v New Mexico*, 564 US __; 131 S Ct 2705; 180 L Ed 2d 610 (2011). Nonetheless, we agree that the defendant is not entitled to relief. Defense counsel stipulated to the admission of the autopsy report. Even assuming, arguendo, that there is merit in the defendant's claim that his counsel was ineffective in this regard, the Court of Appeals correctly held that the admission of the report was not outcome determinative. In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining questions presented should be reviewed by this Court.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

April 18, 2012

Corbin R. Davis

Clerk